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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,552

03/20/2006

Max Daniel Woodhams

URQU.P-018

3865

57381

7590

02/17/2010

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EXAMINER

BRAHAN, THOMAS J

ART UNIT

PAPER NUMBER

3654

MAIL DATE

DELIVERY MODE

02/17/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/549,552	<b>Applicant(s)</b> WOODHAMS, MAX DANIEL	
	<b>Examiner</b> Thomas J. Brahan	<b>Art Unit</b> 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,10-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,10-13 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

Art Unit: 3654

1. In view of the Supplemental Brief filed on December 7, 2009, and a further review of the application, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below. To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/John Q. Nguyen/

Supervisory Patent Examiner, Art Unit 3654

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). There is no discussion of a hand control which is "positioned in a relationship to the plane of said upper surface of the armrest" as recited in claim

1. Appropriate correction is required. No new matter may be entered.

3. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the substantially planar palm contacting surface of claim 1 and the side surfaces aligned substantially perpendicularly to the palm contacting surface of claim 4, must be shown, or the feature must be canceled from the claims. No new matter may be entered.

4. If corrected drawing sheets are submitted to overcome the above objection, they must be in compliance with 37 CFR 1.121(d) and are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Art Unit: 3654

5. If the changes are not accepted by the examiner, because for example introducing new matter, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

7. Claims 1, 4, 5, 7, 10, 11 and 15 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. In claim 1, lines 6 and 7, it is unclear as to how applicant is considering the "hand control having a substantially planar palm contacting surface". Although the specification denotes this surface can be "substantially planar or slightly curved, only the slightly curved surface is shown in the drawings. It is unclear as to whether this limitation is describing one embodiment or whether it is describing two separate embodiments, one embodiment with a hand control having a "substantially planar surface" and another embodiment with a control having a "slightly curved" surface.
- b. In claim 1, line 7, the limitation of the palm contacting surface "which is positioned in relation to the plane of said upper surface of the armrest" is not understood. What does "in relation" mean? What structure is applicant attempting to recite with this limitation?
- c. In claim 4, the limitation "said hand control has side surfaces aligned substantially perpendicularly to said palm contacting surface" is not fully understood. No such perpendicular surfaces appear to be clearly shown in the drawing figures. Again, such surfaces are discussed in the specification, but can be associated with the applicant's drawing figures.
- d. In claim 10, the limitation "the hand control further comprises side surfaces projecting downwardly from said palm contacting surface, said side surfaces configured to permit smooth contact by the side of a user's hand". How can the drawings be used to describe perpendicular sides as well as smooth sides? How can perpendicular surfaces have "smooth" contact with the user's hand? By definition, perpendicular surfaces form a right angle, which is not a smooth contact surface.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3654

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 12 and 13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Voves et al. Voves et al shows a stairlift comprising a stairlift chair (22), the chair having a pair of armrests (44); a manually engageable and displaceable hand control (one of control switches 170) mounted on one of the armrests and being displaceable with respect to the armrest on which it is mounted to effect movement of the stairlift, the hand control including a body member (46 and/or 170) engageable by a user's hand wherein said body member is formed in two parts (the moving part 46 and its mounting part 44) which are displaceable with respect to one another such that, in a first configuration of the two parts, the hand control is inactive (due to mercury switch 172). The body parts differ visually and/or provides a different tactile sensation to the user's hand than when in different operative configurations (positions) as recited in claim 13.

10. Claims 1, 4, 5, 5, 10-13 and 15 would be allowable depending upon how they are rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph.

11. Hull, Kitts and Hitomi et al are cited as showing joysticks with palm engaging surfaces.

12. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Mr. John Q. Nguyen, can be reached at (571) 272-6952. The fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Thomas J. Brahan/  
Primary Examiner, Art Unit 3654